

to the performance of Tenant's Work, to the extent applicable thereto, including, but not limited to, the giving to Landlord, after the completion of any such Alterations, of "as-built" plans therefor, the requirement not to suffer any liens with regard to payment of the costs therefor and the like.

18. UTILITIES AND MECHANICAL MAINTENANCE. Tenant shall make all necessary arrangements with all applicable utility companies and governmental authorities for all utilities supplied to the Demised Premises. If the consumption of gas, electricity or any other utility beside domestic water, sprinkler and sewer is not measured by separate meter, then, Landlord shall install and maintain meters to measure such consumption as part of Landlord's Work attached hereto and Tenant shall pay directly to the utility companies or governmental authorities for such utilities consumed. Tenant shall pay to Landlord within twenty (20) days after being billed therefor an equitable pro-rata share of the cost of domestic water and sewer consumed in the Demised Premises and sprinkler use charges. At all times during the Term of this Lease and any extensions thereof, Tenant shall maintain comprehensive service contracts with a qualified, reputable service maintenance company for the maintenance and repair of the heating, ventilating and air-conditioning equipment servicing the Demised Premises and shall furnish Landlord with true copies thereof.

19. INSURANCE.

A. Tenant's Insurance. Tenant shall maintain throughout the term of this Lease (a) comprehensive general public liability insurance in respect of the Demised Premises, and the conduct and operation of business therein, with Landlord and any mortgagees and ground lessors of Landlord as additional insureds, with limits of not less than \$3,000,000 combined single limit for bodily injury or death and for property damage, including water damage and sprinkler leakage legal liability (such limit being subject to increase from time to time in substantial accordance with increases in the Consumer Price Index, All Items, U.S. City Average, of the Bureau of Labor Statistics of the U.S. Department of Labor (the "CPI") since the Commencement Date of the Term) and (b) workman's compensation insurance to the extent and amounts required by law. Tenant shall, notwithstanding the foregoing, have the right to self-insure with respect to any insurance required hereunder, provided that, during the period of any such self-insurance, Tenant shall be in occupancy of

the Demised Premises, shall meet any applicable requirements for self-insurance of the State of California and shall not have suffered a loss in its operations, according to financial statements prepared by it and made available to the public, for the immediately preceding fiscal year of Tenant and shall have a reported net worth, as of Tenant's most recent reporting period, determined in accordance with generally accepted accounting principles consistently applied, of not less than One Hundred Million Dollars (\$100,000,000.00). Tenant shall deliver to Landlord fully paid-for policies or certificates or renewals thereof, upon request from time to time of Landlord. Tenant shall procure and pay for renewals of such insurance from time to time before the expiration thereof, and Tenant shall deliver to Landlord such renewal policies or certificates upon request of Landlord. All such policies shall be issued by nationally recognized companies of recognized responsibility licensed to do business in the State in which the Demised Premises is located, and all such policies shall contain a provision whereby the same cannot be canceled or modified unless Landlord is given at least ten (10) days prior written notice (by certified or registered mail to the extent that same shall be provided for by such company(ies) under such policy(ies)) of such cancellation or modification. Tenant shall require any contractor of Tenant performing substantial work in, on or about the Demised Premises to take out and keep in full force and effect, at no expense to Landlord (a) comprehensive general public liability insurance in respect of the Demised Premises, and the conduct of its work therein, with Landlord as an additional insured, with limits of not less than \$1,000,000 combined single limit for bodily injury or death and for property damage, including water damage and sprinkler leakage legal liability; (b) workman's compensation or similar insurance in form and amounts required by law; and (c) comprehensive automobile liability insurance including owned, non-owned and hired car coverage in an amount not less than \$1,000,000 combined single limit for bodily injury or death and for property damage.

B. Landlord's Insurance. Landlord shall maintain or cause to be maintained (a) in respect of the Common Areas and the balance of the Shopping Center comprehensive general public liability insurance in an amount to be reasonably determined by Landlord (but in no event less than the greater of the amount of liability insurance maintained by Tenant with respect to the Demised Premises or the amount customarily maintained by landlords of shopping

centers similar to the Shopping Center in northern California), insuring against bodily injury or death to persons and damage to property, and (b) casualty insurance on the building of which the Demised Premises are a part, in "all risk" form and in an amount equal to at least one hundred percent (100%) of the replacement cost of such building exclusive of the cost of foundations, excavations and footings, and (c) rent insurance in an amount equal to twelve (12) months of the then current Fixed Rent and Additional Rent Charges under this Lease. The cost of Landlord's insurance required pursuant to the next preceding sentence shall be includable in the Total Common Area Maintenance Costs. Landlord shall deliver to Tenant copies of the policy(ies) therefor, or certificates thereof, upon request from time to time of Tenant (and of renewals thereof prior to the expiration of such policy(ies)). All proceeds of such casualty insurance shall be used for restoration of the Demised Premises and the Shopping Center after fire or other casualty, unless this Lease shall be terminated on account thereof; the foregoing shall not be construed, however, to require escrow of such proceeds. The premiums for such policy(ies) shall be included in Total Common Area Maintenance Costs, as provided in Section 10G hereof. Tenant agrees that it will use reasonable efforts to cause any contractor doing work for Tenant in the Demised Premises to provide builder's risk insurance with respect thereto.

20. INDEMNITY.

A. Tenant's Indemnification. Tenant shall indemnify, defend and hold harmless Landlord from and against all claims, losses, costs, damages, expenses and liabilities, including, without limitation, reasonable attorneys' fees, which Landlord may incur or pay out by reason of (a) any accidents, damages or injuries to persons or property occurring in or on the Demised Premises, (b) any breach or default hereunder on Tenant's part, (c) any work done in or to the Demised Premises by or for Tenant, or (d) any act, omission or negligence on the part of Tenant and/or its officers, employees, agents, customers, and/or invitees, or any person claiming through or under Tenant. All property of Tenant and its permittees in or about the Demised Premises shall be kept and stored at Tenant's sole risk, and Tenant shall hold Landlord harmless from any claims arising out of damage to, or loss of, the same.

B. Landlord's Indemnification. Landlord shall indemnify, defend and hold harmless Tenant from and against all claims, losses, costs, damages,

expenses and liabilities, including, without limitation, reasonable attorneys' fees, which Tenant may incur or pay out by reason of (a) any accidents, damages or injuries to persons or property occurring in or on the Shopping Center other than the Demised Premises, (b) any breach or default hereunder on Landlord's part, (c) any work done by or for Landlord in or to the Shopping Center, or (d) any act, omission or negligence on the part of Landlord and/or its officers, employees or agents, or any person claiming through or under Landlord.

21. SUBORDINATION AND ATTORNMENT.

A. Subordination to Leases. This Lease and Tenant's interest herein (including without limitation, Tenant's rights in respect of the Common Areas) are and shall be subject and subordinate to each and every ground or underlying lease now existing or hereafter made of the Shopping Center or any part thereof which the Demised Premises is a part, and to all renewals, modifications, replacements and extensions of any such ground or underlying leases, provided in each case (including any such ground or underlying lease existing as of the date hereof) that the lessor under any such ground or underlying lease shall agree with Tenant, by a recordable instrument reasonably acceptable to Tenant, to recognize this Lease and all of Tenant's rights hereunder and not to disturb Tenant's use and occupancy of the Demised Premises except for a cause and in the manner permitted Landlord hereunder. Upon request of Landlord, Tenant shall, within twenty (20) days of receipt of same, execute, acknowledge and deliver any and all documents and instruments subordinating this Lease and Tenant's interest herein, subject to inclusion therein of provisions giving effect to the proviso at the end of the immediately preceding sentence.

B. Subordination to Mortgages. This Lease shall have priority over any mortgage made subsequent to the date of delivery of this Lease, except that in the event that a mortgagee or a prospective mortgagee shall request that this Lease be subject and subordinate to its mortgage, and such mortgage covers or will cover the Shopping Center of any part thereof of which the Demised Premises is a part, and Landlord consents to such subordination, this Lease and Tenant's interest herein (including, without limitation, Tenant's rights in respect of the Common Areas) shall be subject and subordinate to such mortgage and all renewals, modifications, replacements,

consolidations and extensions thereof and to any and all advances made thereunder and the interest thereon, provided that the holder of such mortgage shall agree with Tenant in form and substance as required of a ground or underlying lessor pursuant to Section 21A immediately above, and Tenant shall, within twenty (20) days of receipt of same, execute, acknowledge and deliver any and all documents and instruments subordinating this Lease and Tenant's interest herein, including, but not limited to, a subordination and non-disturbance agreement in the form annexed hereto as Exhibit E, subject to inclusion thereon of provisions given effect to the proviso at the end of the immediately preceding sentence. In the event that a mortgagee of a mortgage made prior to the delivery of this Lease shall request that this Lease have priority over such mortgage, and such mortgage covers the Shopping Center or any part thereof of which the Demised Premises is a part and Landlord consents thereto, this Lease shall have priority over said mortgage and all renewals, replacements, consolidations and extensions thereof and all advances made thereunder and the interest thereon, and Tenant and such mortgagee shall, within twenty (20) days of receipt of same, execute, acknowledge and deliver any and all documents and instruments confirming the priority of this Lease. Any of the documents or instruments which Tenant shall be required to execute, acknowledge and deliver pursuant to the provisions of this Section may contain additional provisions required by such mortgagee. In any event, however, if this Lease shall have priority over the first mortgage covering the Shopping Center or any part thereof which the Demised Premises is a part, this Lease shall not become subject or subordinate to any subordinate mortgage, and Tenant shall not execute any subordination documents or instruments for any subordinate mortgagee, without written consent of the first mortgagee. Landlord shall deliver to Tenant, promptly after the execution and delivery hereof, a recognition/nondisturbance agreement from the holder of any mortgage or other security instrument encumbering the Shopping Center as of the date hereof and which has not been made junior to this Lease as above provided; such agreement shall be in the form therefor attached hereto, and may be recorded by either party hereto.

C. Attornment. In the event of (a) a transfer of Landlord's interest in the Demised Premises, (b) the termination of any ground or underlying lease or (c) the purchase of the Demised Premises or Landlord's interest therein in a foreclosure sale or by deed in lieu of foreclosure under

any mortgage or the purchase pursuant to a power of sale contained in any mortgage, then in any of such events Tenant shall, at Landlord's request, and upon similar attornment by such transferee, purchaser or lessor to Tenant, attorn to and recognize the transferee or purchaser of Landlord's interest or the lessor under the terminated ground or underlying lease, as the case may be, as Landlord under this Lease for the balance then remaining of the Term, and hereafter this Lease shall continue as a direct lease between such person, as "Landlord", and Tenant, as "Tenant", and if the lessor under the terminated ground or underlying lease shall be an institutional lender, or if the transferee or purchaser acquired Landlord's interest pursuant to a foreclosure sale, deed in lieu of foreclosure or power of sale under a mortgage held by an institutional lender, such lessor, transferee or purchaser shall not be liable for any act or omission of Landlord prior to such lease termination or prior to such person's succession to title, nor be subject to any offset or counterclaim accruing prior to such lease termination or prior to such person's succession to title, nor be bound by any payment of Fixed Rent or Additional Rent Charges prior to such lease termination or prior to such person's succession to title for more than one month in advance or by any modification of this Lease or any waiver, compromise, release or discharge of any obligation of Tenant hereunder unless such modification, waiver, compromise, release or discharge shall have been consented to by the lessor under such ground or underlying lease or the mortgagee under said mortgage, or shall have been made prior to the making of such ground or underlying lease or mortgage and such person and each person succeeding to such person's interest in the Demised Premises shall not be liable for any warranty or guaranty of Landlord under this Lease relating to obligations thereafter accruing.

22. DAMAGE OR DESTRUCTION. Tenant shall give prompt notice to Landlord in case of any fire or other damage to the Demised Premises of which Landlord would not otherwise have notice. If (a) the building in which the Demised Premises are located shall be damaged by fire or other occurrence to the extent of more than fifty percent (50%) of the cost of replacement thereof, or (b) such building shall be damaged by fire or other occurrence to the extent of more than twenty-five percent (25%) of the cost of replacement thereof and either the loss shall not be covered by Landlord's insurance or the net insurance proceeds (after deducting all expenses in connection with obtaining same) shall, by reasonable anticipation, be materially insufficient